

For: FSA Offices

Clarifying Foreign Person Policy for the Milk Income Loss Contract (MILC) Program

Approved by: Acting Deputy Administrator, Farm Programs



1 Foreign Person Policy for MILC Program

A Background

MILC regulations at 7 CFR Part 1430.202 provide that a producer participating in the program must meet both of the following requirements:

- be a citizen of, or legal resident alien in the U.S.
- directly or indirectly, as determined by the Secretary, share in the risk of producing milk, and make contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of this operation.

B Purpose

This notice clarifies foreign person eligibility under the 2008 through 2012 MILC program.

C Clarifying Foreign Person Policy for the FY 2008 Through 2012 MILC Program

The previous MILC and MILCX programs allowed foreign persons with a valid taxpayer identification number and a working visa to receive program benefits. However, under the 2008 through 2012 MILC program, foreign person provisions at 7 CFR Part 1400 Subpart F are applicable, as provided by 11-LD, subparagraphs 10 D and 11 E.

Therefore, any person who is not a citizen of the U.S., or a lawful alien who is admitted into the U.S., for permanent residence under the Immigration and Nationality Act and possessing a valid Alien Registration Receipt Card (Form I-551 or I-151), shall be ineligible to receive MILC benefits, **unless** the foreign person is an individual who is providing land, capital, and a substantial amount of active personal labor on the dairy operation.

Disposal Date	Distribution
July 1, 2009	All FSA Offices; State Offices relay to County Offices

1 Foreign Person Policy for MILC Program (Continued)

C Clarifying Foreign Person Policy for 2008 Through 2012 MILC Program (Continued)

Additionally, a corporation or other entity shall be ineligible to receive MILC benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the U.S., or lawful aliens **unless** each foreign individual who is a stockholder or other type of member provides a substantial amount of active personal labor in the production of milk in the dairy operation owned or operated by such an entity

Accordingly, State and County Offices shall follow foreign person rules as provided at 7 CFR Part 1400 and 1-PL, Part 3.

Note: 62-FI, Part 5, provides guidance for tax reporting purposes when program payments are made to producers that are "nonresident aliens". County Offices must follow 62-FI, Part 5 before issuing payments and make withholdings to IRS, if required.